

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

United States of America

v.

Criminal No. 02-cr-15-06-SM

Robert Defelice

O R D E R

On July 20, 2009, defendant appeared for a "probable cause" hearing under Fed. R. Crim. P. 32.1 on two alleged violations of conditions of supervision. He waived the preliminary hearing.

On July 22, 2009, defendant sought bail conditions under Rule 32.1(a)(6). Under Rule 32.1(a)(6) defendant bears the burden of establishing by clear and convincing evidence that he will not flee and that he poses no danger to any other person or to the community. The proffers established that defendant cannot control his temper and that he has hit his girlfriend in the face a number of times. He also went to Shew's residence and hit him. In 1995 he struck an individual on the head with a crow bar. Despite his girlfriend asking that he not be detained, he is a risk of danger and is likely to abuse her further. There are no conditions which are likely to assure his presence and the safety of the community.

Accordingly, it is ORDERED that the defendant be detained

pending trial.

The defendant is committed to the custody of the Attorney General or her designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the government, the person in charge of the corrections facility shall deliver the defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

SO ORDERED.


James R. Muirhead
United States Magistrate Judge

Date: July 22, 2009

cc: Paul J. Garrity, Esq.
Mark A. Irish, Esq.
U.S. Marshal
U.S. Probation